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OFFICE OF PETITIONS

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In re Application of
Mark B. Roller et al
Application No. 10/027,891
Filed: February 20, 2001
Attorney Docket No. MIT-264

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 2/4/2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to reply to the nonfinal Office action mailed on 5/20/2004, which set a shortened statutory period for reply of three months. As no reply was received, and no extensions of time were obtained, this application became abandoned on 8/20/2004. A notice of abandonment was mailed on 1/6/2005.

This application is being referred to TC 3731 for consideration of the reply filed on 2/4/2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the 3 month extension of time submitted with the petition on 2/4/2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Any questions concerning this matter may be directed to Gene Kim at 571 272-6052, or in his absence, the undersigned at 571 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions
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for Patent Examination Policy